

A large logging truck is shown in a forest, carrying a massive log on its back. The truck is yellow and black, with large tires and a long chassis. The forest is dense with green trees, and the sky is blue. The title 'FOREST NEWS' is written in large, bold, white letters at the top. The 'O' in 'FOREST' is replaced by a circular logo featuring a stylized forest scene with a tree and a mountain.

FOREST NEWS

The Newsletter of Forest Service Employees For Environmental Ethics

Spring 2022

Windfall for Wildfire Work

Inside

**FSEE VICTORY / OIL TRAINS IN ROADLESS AREA / NEW WILDFIRE STRATEGY /
FIRST FS STATE PARK / ERASING TRUMP LEGACY**

The Forest Service is supplementing its aerial fire retardant environmental impact statement that FSEEE's lawsuits forced to be written in 2011. Those cases imposed no-drop zones around water and rare plant critical habitat. Fire retardant is the red slurry dumped from aircraft that CNN features in its seasonal "Catastrophic Fires!" newsreels. As the graph shows, retardant use has increased 50% since 2012.

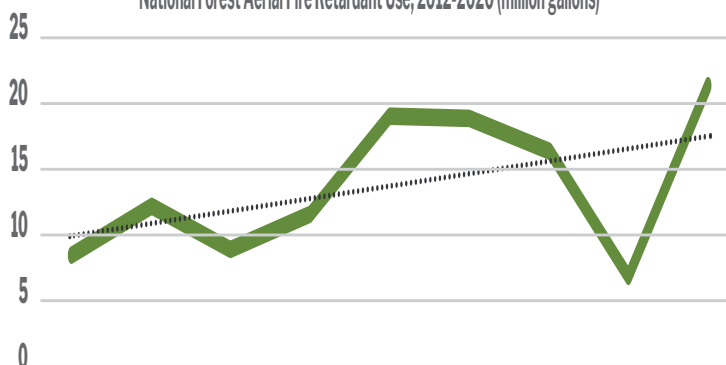
Retardant is a mix of ammonium phosphate fertilizer, water, and iron oxide (the red coloring). The fertilizer is toxic to fish. Fertilizer can also damage rare plants by changing soil chemistry to favor invasive species. FSEEE won lawsuits in 2005 and 2010 that forced the Forest Service to acknowledge this ecological damage and adopt mitigation tactics, including no-drop buffers along streams.

With its re-examination, the Forest Service should now answer a key question: "Is fire retardant effective?" The data suggest not.

The Forest Service measures firefighting effectiveness by its "initial attack success rate," i.e., the proportion of ignitions that remain smaller than 300 acres. Year in and year out, the Forest Service proudly claims 98% success in keeping fires small.

But as I learned early in my career, many ignitions will go out on their own before growing to 300 acres. My Colorado ranger district's first "let burn" fire smoldered for 3 months in subalpine tundra before winter snow extinguished it at about 5 acres. Forest Service records show that the majority of fires remained small before the era of active firefighting. Simply explained, lightning tends to strike in the same places repeatedly, with last year's lightning creating the "fuel treatment" that keeps this year's strike from sparking a large fire.

National Forest Aerial Fire Retardant Use, 2012-2020 (million gallons)



Also, fire retardant can't possibly account for the high initial attack success rate because retardant is used on only 5% of ignitions. Where retardant is used, the initial attack success rate drops from 98% to 50%.

Science's gold standard for measuring treatment effectiveness is the "with and without" controlled experiment — give half the patients medicine while the other half receive a placebo. Then, compare the difference in measurable outcomes.

Every year, the Forest Service does a natural experiment. In about half the ignitions where retardant is prescribed, none is available. It would be simple for the Forest Service to compare outcomes, but it refuses to do so. The Forest Service emperor would rather parade naked than admit his CNN highlight reel is a meaningless PR exercise.

Meanwhile, fish continue to be poisoned, endangered plants continue to be harmed, and retardant pilots, flying in extreme conditions, continue to crash and die.

Sincerely,

Andy Stahl

Inside

3 | Victory

FSEEE Stops Illegal Logging

4 | Featured Park

New Gorge National Park, West Virginia

5 | In Depth

What Will Billions in New Funding Mean for Wildfire Efforts?

2 | Forest News - Spring 2022

7 | Briefly

10-Year Wildfire Strategy · Conservation Task Force · Fire Suppression Bill · State Park on FS Land · Undoing Trump Habitat Rule · Custer-Gallatin Plan Falls Short

9 | Dispatch

Olympic Wilderness Bill · Chief Supports Oil Trains



Victory

This view of the South Sister — of the Three Sisters volcanic peaks in Oregon — is currently off-limits because this portion of the Willamette National Forest is closed due to so-called hazard trees.

FSEEE Stops ‘Hazard Tree’ Logging in Oregon

The 2020 Labor Day weekend saw western Oregon’s Cascade mountains swept by five major drought- and wind-driven wildfires. The old-growth Douglas-fir and hemlock forests that blanketed the west side of the Pacific Northwest’s Cascades were birthed by similar meteorological events 400 to 500 years ago.

Trees killed by fire provide rare wildlife habitat for dozens of bird, mammal, and insect species. They also provide enough shade on the forest floor to create ideal conditions for young seeds to sprout and grow into a new forest. When the Willamette National Forest proposed logging dead old-growth trees along 400 miles of remote, rarely used roads, FSEEE told the Forest Service its so-called “hazard tree” logging made no sense and was illegal.

Judge Michael McShane agreed. Late last year, he ruled that the Forest Service had illegally skirted a National Environmental Policy Act review

before approving the logging. The Forest Service withdrew its decision, protecting these wildlife trees for now.

In our lawsuit, Dr. Travis Heggie, former public risk management specialist for the National Park Service, explained, “Across all federal lands in the United States, 1% of fatalities suffered by the visiting public are caused by falling trees,” while 40% of backcountry deaths result from people falling. Plagiarizing the old aphorism, “If a tree falls in a forest and no one is underneath, does it cause an injury?” Left to their own devices, all trees (alive and dead) fall over; none stands forever. However, the odds of anyone being underneath a backcountry tree at the precise moment it falls are so small that trees are an inconsequential threat to public safety.

Still to be resolved after our win, however, are “closure orders” the Forest Service has imposed on public access to national forests affected by the fires. The agency finds itself hoisted with

its own petard. Having mistakenly claimed that dead trees are a public safety hazard to justify logging them, the Forest Service is finding it difficult to backtrack, admit it was wrong, and re-open hundreds of thousands of national forest acres to the public.

Hiking the Pacific Crest Trail, visiting the Opal Creek Wilderness Area, or rafting California’s Middle Fork Feather River remain off-limits today, with visitors risking a \$5,000 fine and 6 months in jail for violating the many closure orders that litter Pacific Coast national forests. With summer visitation season upcoming, the public is demanding the Forest Service restore access to our land.

FSEEE won this first round, saving thousands of acres of critical wildlife habitat and the birthplace of the next generation of old-growth trees. Although we hope it won’t take another lawsuit, we are prepared to file if the Forest Service does not walk back its irrational closure orders.



New River Gorge National Park in West Virginia protects an incredibly diverse forest ecosystem that has evolved around one of the oldest rivers on Earth.

Featured Park

New River Gorge National Park and Preserve

It's not often that the country gets a new national park, but New River Gorge National Park and Preserve was designated in 2021, protecting 70,000 acres of globally significant forest with the most diverse flora of any river gorge in the south and central Appalachian Mountains.

The New River carved the deepest and longest river gorge in the Appalachian Mountains and, despite its name, is one of the oldest rivers on Earth. The park offers abundant recreational opportunities: whitewater rafting, canoeing, hiking, rock climbing, fishing, hunting, bird watching, camping, picnicking, and biking. Recreation activities bring park visitors to spectacular viewsheds at places like Grandview, Diamond Point, and Long Point, and the Lower Gorge features premier whitewater

rafting with Class III to Class V rapids.

The park also offers a wealth of cultural and natural history, including a diverse ecosystem that harbors endangered mammal, bird, and amphibian species. The features of the New River support a highly productive aquatic ecosystem that includes distinct populations of native fish, mussels, and crayfish. Cultural resources include the railroad tracks that connected the rugged terrain to the outside world in 1872 and the ruins of Kaymoor, an early coal-mining town. Homesteads, townsites, and vestiges of the mining and timber industries serve as reminders of the people who lived and worked along the river to fuel industry during the 18th and 19th centuries.



A firefighter battles a wildfire at night. The Infrastructure Investment and Jobs Act will increase Forest Service wildland firefighter pay by the lesser of \$20,000 a year or 50% of current salary.

In Depth

Fire Funding Bill Cuts Environmental Reviews

Hailed as “Great news!” by Forest Service Chief Randy Moore, the Infrastructure Investment and Jobs Act (IIJA) allocates about \$5.5 billion in additional funding for the Forest Service. In a prepared statement, Moore said the new funding will support an increase in capacity “to improve wildland fire management ... across the National Forest System. About \$3 billion will be invested over five years to reduce the risk of wildland fire and restore ecosystems.” Moore said the investment supports a new 10-year Forest Service strategy for reducing wildfire risk “by treating

the right landscapes at the scale needed to sustain and restore healthy, resilient fire-adapted forests. We know what to do; we have the science and partnership frameworks already in place. This legislation will give us the means to start doing it.”

Christopher Dunn is more skeptical. Dunn co-authored a peer-reviewed study recently published in *Nature Scientific Reports*. Dunn and his fellow researchers found that the most damaging wildfires in the West—to both forests and communities—more commonly start on private lands and are most often caused by humans. Dunn told *Wildfire Today*, “In the

old framing, public agencies bear the primary responsibility for ... protecting our communities, with their efforts focused on prevention, fuel reduction and suppression. This has been the dominant management approach of years past, which is failing us.”

Dunn believes a paradigm shift is long overdue. The Forest Service strategy “leads with a focus on thinning public lands to prevent wildfire intrusion into communities, which is not fully supported by our work, or the work of many other scientists, as the best way to mitigate community risk.”

The IIJA established a new



A slurry bomber drops ammonium phosphate fire retardant in Utah. With billions in increased funding for firefighting and a shortage of wildland firefighters, the Forest Service is almost certain to increase its use of environmentally damaging fire retardant.

categorical exclusion (CE) for fuel breaks under the National Environmental Policy Act (NEPA). In other words, a full environmental review is not required because Congress has determined that projects within the scope of the CE — in this case, fuel breaks up to 1,000 feet wide and encompassing up to 3,000 acres — automatically comply with NEPA.

The American Bar Association analyzed the new law and identified other significant changes, including new emergency authority to “mitigate the harm to life, property, or important natural or cultural resources on National Forest System land or adjacent land.” According to the Bar report, “The Secretary of Agriculture can use the IJJA emergency authority to address a wide range of needs, including salvage of dead or dying trees, harvest of frost or wind-damaged trees, ... sanitation harvest of trees to control insects or disease ... the removal of hazardous trees in close proximity to roads and trails, the removal of hazardous fuels,” etc.

Weakening NEPA has rarely, if ever, produced

positive environmental outcomes, and combining the new CE with this emergency authority will make it easy for the Forest Service to fall back into the habit of cutting as many trees as it can. At the same time, “To help utilize the wood material being taken out of fire-prone forests,” the IJJA includes gifts to the timber industry — \$460 million for “wood innovation” to facilitate the use of “byproducts from tens of millions of acres of public and private forest restoration.” The IJJA also funds a program to provide financing, including low-interest loans and loan guarantees, to sawmills and other wood-processing facilities near “treatment areas.”

Chief Moore touted the IJJA’s investment in the Forest Service firefighting workforce “by creating a new occupational series for wildland firefighters, sorely needed in this era of growing fire severity and extreme fire behavior The new legislation will increase the base firefighter salary and let us convert no fewer than 1,000 seasonal firefighters into permanent fire managers with greater

responsibility for fuels and forest health treatments on federal lands.”

“Inside the Forest Service,” published by the Forest Service Office of Communication, reports that a multi-agency work group “is meeting regularly” and convening “focus group sessions” to develop the parameters of the Wildland Firefighter occupational series. The same article indicates the Department of Agriculture “issued guidance to ensure no firefighter is paid less than \$15 an hour” and notes that the new law requires an increase in base wildland firefighter salary by the “lesser of \$20,000 per year or 50% of salary.”

Politico reported that the Forest Service “has had chronic staffing shortages for over a decade” and faces an even bleaker outlook as it attempts to hire more firefighters in a competitive post-pandemic labor market. A Forest Service email obtained by Politico warns that applications for firefighting positions are down by more than 50% compared to 2021. Meanwhile, the San Francisco Chronicle reports that 60 wildfire engines sat



An industrial sawmill converts logs into lumber. The Infrastructure Investment and Jobs Act provides for low-interest loans and loan guarantees for wood-processing facilities near national forests that will be thinned under the guise of wildfire mitigation.

idle across California at the height of the 2021 fire season due to staffing shortages. Given the increase in Forest Service funding for fighting wildfires and the dearth of wildland firefighters, a logical outcome of the IIJA will be an increase in the use of aerial fire retardant, which has not proven effective and is ecologically destructive.

If there is a bright spot in the IIJA authorizations, it would be the \$2.57 billion allocated to post-fire recovery and burned-area rehabilitation. Post-fire ash and erosion pose significant threats to critical water resources. Effectively remediating these threats may benefit the affected communities.

Missing from the IIJA is funding for wildfire mitigation strategies that

enjoy consensus among experts: home hardening and defensible space. Home hardening includes practices like retrofitting with noncombustible roofing and siding, cleaning and screening gutters, and adding screens to vents to prevent cinders from entering and burning homes from the inside. Forest ecologist Chad Hanson, Ph.D., believes, “The only effective solution is home hardening and defensible space, while keeping the carbon in our forests to mitigate the climate crisis.” He cites “numerous examples” of towns that implemented these protections “and saved 95 percent of homes, or more. ... Vegetation management activities beyond 100 feet from homes provide no additional safety benefit” to people and property.

The report from Dunn and his colleagues echoes Hanson’s findings. They conclude, “Federal agencies like the USFS can provide capacity, analytics, and funding, but given that private lands are where most high-value assets are located and where most cross-boundary fires originate, communities and private landowners may be best positioned to reduce losses.” Dunn also believes the Forest Service has “opportunities to learn from what their state partners are doing.” Specifically, Dunn praises Oregon’s 2021 omnibus wildfire bill with its “science-driven approach” and “more comprehensive policies,” including a requirement for owners of homes at greatest risk to mitigate that risk “at the home ignition zone.”

Briefly

Forest Service Adopts 10-year Wildfire Strategy

The Department of Agriculture and the Forest Service have launched a “comprehensive response to the nation’s growing wildfire crisis.” The 10-year strategic plan outlines “the need to significantly increase fuels and forest health treatments to address the escalating crisis of wildfire danger.”

Citing “risk-based information” from new research on “high risk ‘firesheds,’” a Forest Service statement says the agency will work with partners to “create shared priorities for landscape scale work ... in areas identified as being at the highest risk, based on community exposure.”

The strategy calls for the Forest Service to cut down trees and use prescribed burns to “treat” up to an additional 20 million acres in national forests. The Infrastructure Investment and Jobs Act provides about \$3 billion for these treatments and other fire-response actions.

Ag and Interior Join Governors in Conservation Task Force

The Departments of Agriculture and Interior joined the Western Governors Association to launch a Task Force on collaborative conservation “to meet our collective natural resource management challenges and improve environmental outcomes for communities across the West,” reads a DOI press release.

Agriculture Secretary Tom Vilsack: “As Western communities grapple with environmental challenges exacerbated by climate change, such as increasing drought and more frequent and intense wildfires, bolstering effective collaboration ... is imperative.”

Interior Secretary Deb Haaland: “Growing up in the high desert of New Mexico, I am no stranger to water scarcity, threats of wildfire and relying on the land. As climate change intensifies these environmental challenges, we have a unique opportunity to collaborate with our Western partners and advance our shared priorities.”


Bill Would Require Forest Service to Suppress all Fires

Republican congressmen Tom McClintock and Doug LaMalfa introduced legislation “directing the Forest Service to immediately suppress wildfires on National Forest System lands and put an end to the policy of letting fires burn.”

If passed, H.R. 6903 would require the Forest Service to, “use all available resources to carry out wildfire suppression with the purpose of extinguishing wildfires ... not later than 24 hours” after detection.

LaMalfa said, “Our forests are overgrown, the long-term solution is to return to proper management and aggressively thin them.”


Although LaMalfa does not say what “aggressive thinning” means to the bill’s sponsors, it suggests turning back the clock to the timber-first focus that dominated the Forest Service’s agenda during the second half of the last century.



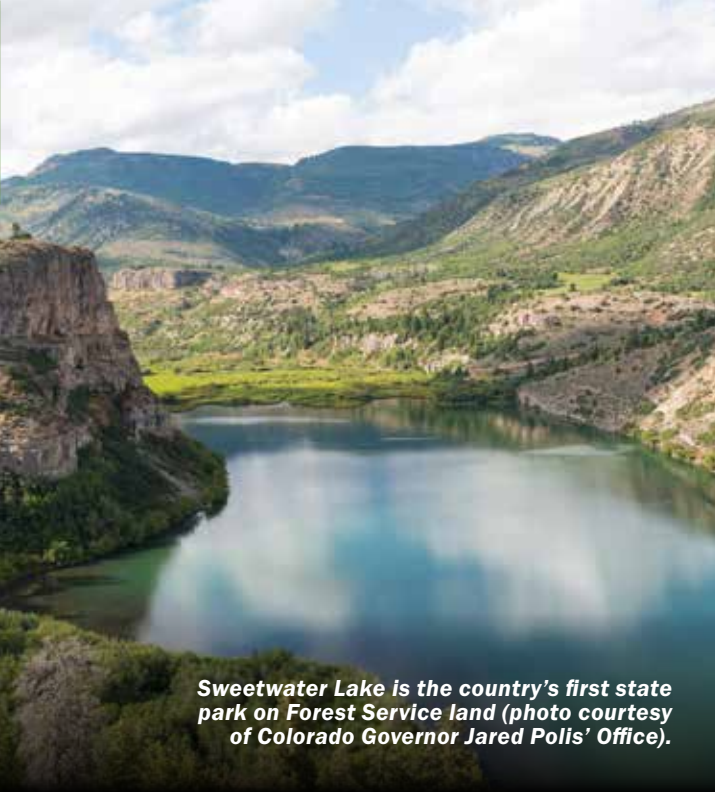
Logs await transport to Colorado sawmills following thinning of beetle-killed trees in a “high-risk fireshed” along the Continental Divide.



Agriculture Secretary Tom Vilsack.



Firefighters walk through smoke as they attempt to contain a wildfire.



Sweetwater Lake is the country's first state park on Forest Service land (photo courtesy of Colorado Governor Jared Polis' Office).



A designation of critical habitat for the dusky gopher frog, now residing mostly in a single Mississippi pond, prompted a legal battle that reached the Supreme Court, contributing to the restrictive definition of habitat (photo by John A. Tupy).



Lava Lake in the Gallatin National Forest.

State Park is First on Forest Service Land

Colorado's 43rd state park is the first of its kind — it sits on Forest Service land. In 2021, the White River National Forest took ownership of the 488-acre Sweetwater Lake parcel adjacent to the Flat Tops Wilderness. The state park designation is the result of work by the Eagle Valley Land Trust and funding from the Land and Water Conservation Fund.

The Colorado Sun reports, “The remote acreage has been eyed by wealthy investors for development of golf courses, a private community of luxury homes and even a water bottling plant.”

A 2019 memorandum of understanding between the Forest Service and the State of Colorado provided the framework for the new state park, which is supported by the county, local municipalities, and local residents.

One Step Closer to Erasing Trump Rule

Greenwire reports that the Fish and Wildlife Service (FWS) submitted a new rule for White House review, a step toward undoing a Trump administration rule redefining critical habitat under the Endangered Species Act.

The new rule would cancel the Trump-era rule that eliminated habitat that had once supported endangered species. Last year, the FWS determined that the Trump-era definition would “inappropriately constrain” FWS’s ability to designate areas that meet the definition of critical habitat.

The Trump administration rule “neither stemmed from the scientific literature nor had a clear relationship with the statutory definition of ‘critical habitat,’” said an FWS statement.

Plan Falls Short on Wilderness Recommendation

Gallatin National Forest lies at the northwest corner of Yellowstone National Park. Along with Custer National Forest, it encompasses more than 3.3 million acres, including the Absaroka-Beartooth and Lee Metcalf wilderness areas.

The final Custer Gallatin Land Management Plan recommends 113,000 acres of new wilderness. (Only Congress can designate wilderness.) The recommendation amounts to 10% of Custer Gallatin lands that could qualify for wilderness designation.

The plan also reduces the size of roadless areas, and the most common land designations are “recreation emphasis” and “backcountry,” neither of which offers meaningful protection.

Instead of wilderness protection, the new plan emphasizes recreation and timber harvest, and the pittance of land recommended for wilderness designation amounts to “rocks and ice” — i.e., it has little, if any, suitable wildlife habitat.

The Forest Service did not recommend for wilderness protection two watersheds, the Buffalo Horn and Porcupine, that provide some of the best wildlife habitat near Yellowstone National Park.



The Big Quilcene River in Olympic National Forest in Washington would receive protection under proposed wilderness legislation.

Dispatch

Washington's Olympic Wilderness Bill Teed up for Action

The ingredients are in place to advance wilderness protection in Washington State's Olympic Peninsula. Rep. Derek Kilmer (D, Wash.) and Sen. Patty Murray (D, Wash.) have introduced companion bills (H.R. 999 and S. 455) in their respective chambers. In a Senate subcommittee hearing, the Biden administration has gone on record supporting this important legislation. The time is right to see these special rain forests protected. Indeed, if this Congress does not act in 2022, it may be quite some time before the next opportunity presents itself.

It is in the Senate where the challenge to pass wilderness legislation is most acute. In 2021, the House passed the Olympics bill as part of a larger package of wilderness proposals called the Protecting America's Wilderness and Public Lands Act (H.R. 803). The House vote on the bigger bill, which, in addition to the Olympics, would have protected wilderness in California and Colorado, was 227-200, with 8 Republicans and 1 Democrat crossing the largely party-line vote. The Senate subsequently stripped the bigger H.R. 803 from a defense

authorization bill to which the House had attached it. The message was clear — wilderness legislation will have to stand on its merits in this Senate, not as an add-on to other legislation.

Assessing the prospects for Senate passage suggests Washington's Olympic bill is most likely, Colorado second, and California a more distant third. The Olympic bill protects wet forests (i.e., fire is not an issue) largely off-limits to logging and unsuited to mechanical (motorized or bicycle) recreation because of its very steep slopes. The maps and details have been vetted and practical considerations of each proposed wilderness area ironed out with the Forest Service. Colorado's wilderness proposal is a tougher sell with motorized recreation interests and includes long fought-over natural gas lands. In California, the elephant in the room is wildfire, which has come to dominate forest policy to the exclusion of all else.

Now is the time for residents of Washington, Colorado, and California who care about wilderness to make their voices heard with their state's U.S. senators.

Chief Supports Oil Trains in Roadless Area, Prompting Lawsuit

In a letter to the Center for Biological Diversity, Forest Service Chief Randy Moore defended a railroad right-of-way for the Uinta Basin Railway (UBR) through an inventoried roadless area in Utah. The UBR environmental impact statement documents “unavoidable impacts” to surface waters, wetlands, and endangered species habitat in Ashley National Forest, yet Forest Supervisor Susan Eickhoff approved the right-of-way, the final administrative hurdle to construction of the 88-mile railway.

The Uinta Basin contains extensive “oil shale” and “tar sands” formations, two of the dirtiest, least desirable types of petroleum reserves. The Seven County Infrastructure Coalition proposed the UBR to connect Uinta Basin heavy crude to the national rail network. As reported in The Salt Lake Tribune, the new line will enable Uinta Basin petroleum production to nearly quadruple to 350,000 barrels a day by providing access to Gulf Coast refineries.

The Coalition jump-started the railway using a \$21.4 million grant funded by federal mineral royalties. Environmental groups filed a lawsuit, asserting, “This (grant) money is meant to help repair damage done by the fossil fuel industry, not subsidize it.”

Regarding Eickhoff’s decision, Moore wrote, “The Forest Supervisor determined the proposed use of the project ... supports President Joseph R. Biden’s policies outlined in Executive Order 14008.”

A cornerstone of the Biden administration’s climate policy, Executive Order 14008, “Tackling the Climate Crisis at Home and Abroad,” sets as U.S. policy the goal of “significant short-term reductions in greenhouse gas emissions and net-zero global emissions by mid-century or before.”

Regarding oil trains crossing a national forest roadless area, Moore wrote that the 2001 Roadless Rule “establishes prohibitions on road construction, road re-construction, and timber harvesting on inventoried roadless areas. ... By definition, a railway does not constitute a road under the Roadless Rule. Additionally,



The Moffat Tunnel Rail Line, shown here at the east end of Gore Canyon, could carry waxy crude oil from Utah along the headwaters of the Colorado River with Forest Service approval of a right-of-way for the Uinta Basin Railway across a roadless area (photo by Loco Steve).

the proposal does not include the creation of any roads in the inventoried roadless area.”

The deadline for final approval of the right-of-way was March 5, but as of this writing, the decision had not been finalized and had reached the office of Agriculture Secretary Tom Vilsack. An environmental coalition has filed a lawsuit naming the Forest Service in an attempt to block construction of the UBR.



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Old-growth poplar trees grow in the Joyce Kilmer Memorial Forest in North Carolina. The memorial forest is part of the Joyce Kilmer-Slickrock Wilderness Area, which straddles the Tennessee-North Carolina state line and protects a rare pocket of Eastern old-growth forest.